UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2001/134/Add.1
E/CN.4/Sub.2/2001/3/Add.1
7 March 2001

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 9 of the provisional agenda
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-third session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Letter dated 22 January 2001 from the Prime Minister of Togo addressed to the United Nations High Commissioner for Human Rights

We acknowledge receipt of the report of the Commission of the Organization of African Unity and the United Nations concerning the allegations of Amnesty International, which you kindly made available to us. From an analysis of its content it is clear that this is in fact a partial report by a Commission which has exceeded its mandate and of which some members are known to have links to Amnesty International.

Accordingly, the Government of Togo declares this report inadmissible. It has been well established that Amnesty International's allegations are without any foundation and that this report is a political fabrication aimed at discrediting the Government and people of Togo.

As proof, we are making available to you the correspondence which Mr. Gilchrist Olympio sent to Mr. Pierre Sané for the preparation of the Amnesty International report and indicating the commissions paid by that individual to the Secretary-General of Amnesty International.

It should be noted that, notwithstanding all of his denials, Mr. Gilchrist Olympio cannot dispute the authorship of the above-mentioned correspondence, since the findings of the studies made by a United States forensic handwriting examiner attest to the fact that Mr. Olympio actually signed the documents in question.

Accept, Madam, the assurances of my highest consideration.

(Signed): Messan Agbeyome Kodjo
Prime Minister

Annexes:*

1. Reaction of the Togolese Government
2. Correspondence from Mr. Olympio to Mr. Pierre Sané
3. Attestation of the United States handwriting examiner

* Annexes 2 and 3 are reproduced as received, in English and French only.

Annex 1

REACTION OF THE GOVERNMENT OF THE TOGOLESE REPUBLIC TO THE REPORT OF THE INTERNATIONAL COMMISSION OF INQUIRY OF THE ORGANIZATION OF AFRICAN UNITY AND THE UNITED NATIONS CONCERNING THE ACCUSATIONS OF AMNESTY INTERNATIONAL

Report of the Government of Togo on the Amnesty International affair

1. The Amnesty International report

On 5 May 1999, Amnesty International published a grossly misleading report attacking the Togolese authorities and accusing them of barbarous acts. The most damning passage concerned the period of the June 1998 Presidential election.

The report inter alia stated:

> "In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin."

2. The political circumstances

It should be pointed out that the Amnesty International report was deliberately published on the day when the facilitators of the inter-Togolese dialogue were to arrive in Lomé.

The aim was therefore to paralyse this dialogue, which the terrorist faction of the opposition led by Gilchrist Olympio was against, unlike the other opposition parties. This fact alone is enough to demonstrate the complicity between, on the one hand, the authors of the report and especially the Secretary-General of Amnesty International, Mr. Pierre Sané, and, on the other hand, Mr. Gilchrist Olympio. A similar complicity occurred, at the time of the Presidential election, between Mr. Olympio and the European Regional Information Society (ERIS), an association working for the European Union to observe the election. This was denounced by the former Prime Minister of France, Mr. Michel Rocard.

3. The judicial proceedings and inquiry

As soon as the Amnesty International report was published, the Governmen. of Togo instituted legal proceedings against the authors of the report and their accomplices.

A judicial case was furthermore opened concerning the crimes allegedly committed.

An investigation conducted, beach by beach, by the national gendarmerie as part of the inquiry helped to show that none of the facts referred to in the report were correct.

In connection with the complaint of the Minister of Defence, the first examining magistrate charged four people on 7, 14 and 20 May 1999 with complicity to commit an offence against honour, dissemination of false information and incitement to revolt.

The persons questioned as part of the inquiry pointed out furthermore that while they had reported rumours to fuel the Amnesty International report, they had never mentioned any of the imagined deaths referred to therein.

Those asked the question:

"The Amnesty International report refers to hundreds of bodies found on the beaches of Togo and Benin. What do you say to this?"

responded on 11 May 1999 as follows:

Mr. Gayibo laughed and said:

"I personally never heard about that."

Mr. Tengue himself said:

"Hundreds of bodies! For me, that sounds like science fiction. And there was no mass gathering? You know the problem of mass gatherings in Togo. We love dead bodies. Hundreds of bodies and no reaction? The whole town would have stayed home for the funerals."

Another person questioned, Brice Sant'Anna, said:

"Mr. Tengue also asked us to add some phoney information about alleged human rights violations.

"That is how the members of Amnesty International came to be handed a document we had prepared under those conditions. That document was later seized by the police. It contained the following sentence: 'for some time discoveries of dead bodies have been made on the Togolese coast'.

"I think it is this erroneous information that was then turned by the members of Amnesty International, serving as accomplices of Gilchrist Olympio, into an accusation concerning a hundred or so deaths.

"We did not check on the truthfulness of the information published.

"I know that when he came to Lomé, Gaétan Moutoo of Amnesty International slept for the first night at the home of Mr. Gninivi, with whom he had been friendly at Tokoin Wuiti.

"He later went to Le Bénin hotel, but we were asked to look after him and give him our press files for him to add to his report against Togo.

"In the course of those meetings, I learnt that Mr. Sané was a friend of Gilchrist Olympio, whom he had met on several occasions and whose action he supported.

"We prepared several visits by Mr. Moutoo to the interior of the country. In that connection, we asked some local people to come forward and say that they had been victims of human rights violations. They then repeated those allegations to Mr. Moutoo. I myself led the Amnesty International representatives around the Lakes prefecture, while Mr. Tengue took them to Notsé."

The judicial inquiry thus reveals that:

- The facts adduced by Amnesty International are incorrect;

- The Amnesty International report is the product of complicity between the leaders of Amnesty International and some terrorist opposition leaders, including Gilchrist Olympio.

4. The concordant international testimony of observers and journalists

The inquiry confirms what all the observers and journalists present in Lomé at the time of the Presidential election themselves noted.

None of them lends credence to Amnesty International's claims. They all confirmed the calm and quiet atmosphere of the election and they never heard anyone report these alleged deaths. This is also what an Africa specialist, the journalist Stephen Smith, confirmed in the daily newspaper Libération.

The President of the French Republic, Mr. Jacques Chirac, while visiting Lomé in July 1999, for his part described the Amnesty International report as being the result of manipulation.

5. The request by Togo for a commission of inquiry

In the light of the above, the leaders of Amnesty International should have been put on trial in Lomé.

However, in order to provide evidence of his good will and undeniably bring out the truth, the President of the Togolese Republic, Gnassingbé Eyadéma, called for an international commission of inquiry to be set up under the joint auspices of the United Nations and the Organization of African Unity.

After its mandate was defined, the Commission was set up on 7 June 2000. Its establishment was announced in a joint press release of the United Nations and the Organization of African Unity. The press release states that the Commission was set up at Togo's initiative.

6. The Commission's mandate

The Commission was given the task of verifying whether or not the following allegations in the Amnesty International report are founded:

> "In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin."

7. Composition of the Commission

The Commission is composed of the following:

Chairman: Mr. Mahamat Hassan Abakar (Chad);

Members: Mr. Paulo Sergio Pinheiro (Brazil);
Mr. Issaka Souna (Niger).

The Commission was assisted by a support team. The composition of this team raised some comments on the part of the Government of Togo, as certain of the members proposed had had links to Amnesty International.

Following the removal of these members, the Chairman of the Commission informed the Government that he himself had conducted missions for Amnesty International and asked whether this would make it necessary for him to resign from his post. The Government replied that it did not intend to take any decision which it was the Chairman's prerogative to take as his conscience dictated.

The Government of Togo does not intend to interfere in the Commission's activities; it simply wishes to see an independent and impartial inquiry bring out the truth after the wild accusations which have been brought to bear against Togo.

However, it cannot help but regret that certain members of the Commission were chosen from among Amnesty International teams, which casts doubt on their work.

8. Prior conditions

Two prior conditions set by the Commission delayed its arrival in Lomé:

(a) It was requested that judicial proceedings against Pierre Sané and his accomplices should be suspended. This is quite an unusual request in a State under the rule of law.

Nevertheless, the Head of State agreed that the Government of Togo would withdraw its complaints as soon as the Commission arrived in the field.

(b) It was also requested that the security of witnesses should be guaranteed. This request was granted all the more willingly as the Government of Togo, which had requested the establishment of the Commission of Inquiry, naturally wished in no way to bring its work to a standstill or influence its investigations.

In a press release dated 20 October 2000, the Commission stated:

"The Government of Togo, at the request of the Commission and in accordance with its previous undertakings to cooperate fully with the inquiry, has agreed to the following:

Concerning the case against Pierre Sané, Secretary-General of Amnesty International, the Government of Togo has decided to drop all proceedings against Pierre Sané and the other individuals involved in the allegations which are the subject of this inquiry, as soon as the Commission has begun its work in the field, i.e. in Lomé.

Concerning the protection of witnesses and the Commission's sources, the Government of Togo has confirmed that no one will be harassed or prosecuted for having testified before or cooperated with the Commission of Inquiry."

9. Work of the Commission of Inquiry

The Commission held its first meeting in Geneva from 31 July to 4 August 2000. At this meeting, it adopted measures relating to its methods of work. It held a second meeting in Geneva from 18 to 22 September 2000.

It met twice in Togo, in November and December 2000. It was provided with full facilities for conducting its investigations and interviewing anyone it deemed necessary with a view to obtaining as much information as possible. The Commission also travelled to Benin and Ghana, although that country was not covered by its mandate.

Thus the Government of Togo, which had requested the establishment of the Commission of Inquiry, did everything in its power to help it to discharge its mandate while fully protecting its independence.

It should also be noted that the Government received no requests from the Commission of Inquiry concerning the identity of any particular person who might have been the victim of these alleged summary executions during the period of the Presidential election, which would certainly have been the case if such events had occurred.

10. Violation by the Commission of the adversarial principle

In a letter received on 12 December 2000, the Chairman of the Commission provided the Minister of Justice with a list of persons reported to have disappeared or to have been the victims of extrajudicial executions.

In a letter dated 20 December 2000, the Minister of Justice replied as follows:

"Sir, in reply to your letter of 10 December 2000, I would remind you that the competence of your Commission, which was established at the request of the Government of Togo, relates to the verification of the following point:

'In June 1998, during the Presidential election campaign, and after the results were announced, hundreds of people, including members of the military, were extrajudicially executed. Bodies were retrieved from the beaches of Togo and Benin and corpses were seen at sea for at least four days around Benin.'

Your mandate is therefore limited ratione temporis, ratione materiae and ratione loci.

I note, however, that your request does not fall within your competence. It is therefore impossible for me to meet it, which does not mean that Togo will refuse to provide the human rights bodies with full information concerning the wild allegations of executions and disappearances which you report.

But I must remind you of the purpose of your mission. Togo has been unfairly accused by Amnesty International of hundreds of summary executions during the period of the Presidential election; we are still awaiting a list of these hundreds of executions alleged by Amnesty International, and I find it astonishing that you have not provided us with a single document in this connection while at the same time exceeding your mandate.

Accept, Sir ...".

Nevertheless, the Minister of Justice applied on the same day to the Chairman of the National Human Rights Commission asking him to conduct an inquiry into these gratuitous accusations which exceed the Commission's terms of reference.

11. Inequality of treatment by the Commission in favour of the Union des forces de changement (UFC)

In a letter dated 19 November 2000, Chairman Amegah forwarded to the International Commission of Inquiry various documents relating to the Amnesty International affair.

These documents appear to have been transmitted by the Chairman of the Commission of Inquiry to the Union des forces de changement.

This action shows that the Commission's procedure is developing in keeping with the adversarial principle.

The Government notes, however, that this procedure is one-sided.

At no time was the Government provided with documents in support of Amnesty International's false accusations concerning so-called hundreds of deaths, such as the victims' identities, complaints lodged by the families, etc.

The Government can only conclude that Amnesty International has been unable to furnish any reliable documents incriminating the Government of Togo.

Having been seriously libelled by the Amnesty International report, the Government is entitled to be informed of the material put forward to support the outrageous charge that hundreds of people were killed.

The Government therefore made a request to the Commission, to the effect that any such document, if any existed, which it received from any party whatsoever, should be transmitted to the Government in order to guarantee that an adversarial procedure was followed. This has not been done.

It will be noted that the Commission has taken care not to make any reference in its report to the documents transmitted by the Government of Togo to the Commission which indicate an unethical relationship between Pierre Sané and Amnesty International, whereas, in order to clear Amnesty International's leaders, the Commission accuses the Togolese authorities of attempts to bribe unidentified persons. This is an unquestionable example of the Commission's bias.

Thus the rule of impartiality and equal respect for the rights of all parties, which is an essential component of the Commission's work, has been violated.

12. Submission of the Commission's report

The Commission transmitted its confidential report to the Government of Togo on 17 January 2001, without observing an adversarial procedure at any time. At no time did the Commission communicate lists of names of the hundreds of missing persons or of complaints lodged by their families.

13. Conclusions of the Government of Togo concerning the Commission's report

(a) The Government notes with satisfaction that at no time did the Commission provide any evidence supporting Amnesty International's wild allegations of so-called hundreds of victims. At no time were the victims' identities or their families' complaints submitted to the Government in accordance with an adversarial procedure, which would have certainly been the case if the victims had really existed. To avoid deciding against Amnesty International, the Commission states that it can neither confirm nor invalidate the allegations which were the purpose of its mission. This conclusion alone is enough to show that Amnesty International has provided no evidence in support of its allegations. It also shows that the Commission has not fulfilled its mandate.

Annexe 2

MIDCO INTERNATIONAL (1988)

PREMIER HOUSE, SUITE 522, 10 GREYCOAT PLACE, LONDON SW1P 1SB
TEL : 0171 233 0202 FAX : 0171 222 0631 TELEX : 918475 MIDCO G

Londres, le 29Avril 1999

Monsieur PIERRE SANE
Amnesty International
1 Eastern Street
London WC1X 8DJ
United Kingdom

Cher Pierre,

Pour faire suite à notre dernier entretien, du reste fort constructif en termes de stratégie, je te prie de trouver ci-jointe, sous plis fermé, conformément à nos communs engagements, la somme de US dollars 300. 000 .

Avec la prochaine publication dans quelques jours, je suis convaincu de ton engagement à nos côtés pour combattre la vieille dictature de l'Afrique.

Je veux également te rassurer de ma disponibilité à t'apporter l'aide nécessaire dans le cadre de ton combat pour la libération de la Casamance.

Je te ferai parvenir par mon collaborateur Charles QUIST, la somme de US dollars deux cents mille, lors de ton prochain séjour à ACCRA .

Comme convenu, retournes-moi la présente copie, par mesure de confidentialité, portant le code prévu pour confirmation.

Fraternelles amitiés.

Pole 13

G. S. Olympio

MIDCO INTERNATIONAL (1988)

PREMIER HOUSE, SUITE 522, 10 GREYCOAT PLACE, LONDON SW1P 1SB
TEL : 0171 233 0202 FAX : 0171 222 0631 TELEX : 918475 MIDCO G

Londres, le 17 Mai 1999

Monsieur PIERRE SANE
ACCRA

Cher Ami,

Reçois ici mes félicitations pour les dommages créés au gouvernement togolais avec la publication de votre dernier rapport sur les droits de l'homme au Togo.

Tu trouveras comme prévu dans le plis fermé ci-joint la somme de US $ 200.000.

Par précaution, vérifies le nom du porteur de la présente qui se nomme CHARLES QUIST .

Ne pas oublier le code comme précédemment.

Sincères Amitiés.

G. S. Olympio

POK 01

Annex 3

Strokes & Slants

Handwriting Services

Forensic Document Examination

January 12th 2001

For the Attention of
Fred Alston

It is of my opinion that the documents in question are all signed by the same person, my findings are as follows:

Letters dated 17 May 1999 and April 29 1999 are signed by the same person.

I based my findings on the examination of Xeroxed copies.

Beverley East. QDE
Handwriting Examiner

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